

REMARKS/ARGUMENTS

This is intended to be a complete response to the official action mailed February 17, 2004 in which claims 1-15 were rejected. Claims 1, 3, 8, 10, 12 and 14 have been amended. New claims 16-70 have been added.

In the specification, the paragraph 0091 has been amended to correct a typographical error in the original application.

Assertion of Priority

In the rejection it was stated:

"Examiner considers the claims in the instant invention to be drawn to Figs. 20-22. Since the comparable figures in US 6,385,904 B1 show a bottom gusset (26r of Figs. 20 and 21 in 6,385,904 B1) the priority of the instant Application is considered to be 18 September 2001, the filing date of 09/954,665 which is abandoned."

Applicant respectfully traverses. Although Figures 20 and 21 of U.S. 6,385,904 show a floral sleeve having a gusset, applicant respectfully submits that the '904 specification also inherently describes and enables a similar sleeve having the shape of sleeve 10r without a gusset, i.e., a sleeve having a lower end with a half-hexagon shape but without a gusset.

Applicant directs Examiner's attention to Col. 15, lines 10-12 of '904 which states that sleeve 10r of Figures 20-21 is sleeve 10p except sleeve 10p has a gusset having a different shape. Similarly, Col. 14, lines 55-60, state that

sleeve 10p is similar to sleeve 10 except regarding the bonding material and size of the upper portion of the sleeve.

Therefore, a person of ordinary skill in the art would conclude that sleeve 10r could, in an alternative embodiment, have any of the same features of sleeve 10. In fact, the specification of '904 indicates that a gusset in the lower end of the sleeve is optional. For example, Col. 6, lines 41-42, state that "Preferably the lower end 14 is closed with a gusset 26 **but may be sealed along an edge.**"

Further, Col. 6, line 47-52, state "When the lower end 14 of the sleeve 10 has a closed bottom, a portion of the lower end 14 **may be** inwardly folded to form one or more gussets...".

Further, Col. 11, lines 42-46, states "When the lower end 14 is closed the lower end 14 **may have** one or more gussets 26 formed therein...".

Clearly, a gusset is an optional feature of sleeve 10, and thus the gussets shown in Figures 18-21 (and sleeve 10r) are also optional. The only required feature of sleeve 10r which differs from sleeve 10 or 10p of '904 is the hexagonal shape of the lower end of sleeve 10r. The other features, including the gusset in the lower end are therefore optional.

As is shown by the above, a sleeve like sleeve 10r without a gusset is inherently and implicitly supported in the '904 patent, therefore the Figures 20-21 of the present application and its parent application (09/954,665) which

show a sleeve without a gusset do not constitute new matter. Applicant therefore respectfully and strongly submits that the present claims are deserving of the filing date (February 10, 1995) of the ultimate parent application (08/386,859) as the ultimate priority date.

First Rejection Under §103(a)

Claims 1, 3-7, 8, 10, 11, 12, 14 and 15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over de Klerk et al. (US 5,228,234; the 7th document from the bottom of page 5 of Applicant's 1449) in view of Geigel (US 3,357,152; the 2nd document from the bottom of page 2 of Applicant's 1449).

The de Klerk reference teaches a sleeve having a single detachable upper portion 35 and a corresponding and opposite upper edge 32 which lacks a detachable upper portion. De Klerk also explicitly teaches that the lower end 33 is intended to be left unconnected (see Col. 6, lines 5-6).

In the claims as amended herein, the sleeve is defined as having an upper portion which is detachable both from a portion of the first panel and from a portion of the second panel. This is contrary to the teaching of de Klerk which shows the presence of just a single detachable portion 35 from just one of the panels. The construction method shown in Figs. 1 and 2 of de Klerk show how the sleeve is designed to be constructed of just a single detachable portion 35. A person of ordinary skill in the art would not be motivated to modify the de

Klerk sleeve to have a pair of upper detachable portions in view of the teachings of de Klerk.

Regarding claims 30 and 51 as applicant has noted above, de Klerk teaches that the first and second panels are left unconnected at the lower end (Col. 6, lines 5-6). In new claims 30 and 51, the sleeve is defined as having a first panel and a second panel which is unconnected at the lower end, contrary to the teachings of de Klerk.

In view of the above, applicant respectfully requests reconsideration and withdrawal of the rejection under §103.

Second Rejection under §103(a)

Claims 2, 9 and 13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over de Klerk et al. (US 5,228,234; the 7th document from the bottom of page 5 of Applicant's 1449) in view of Geigel (US 3,357,152; the 2nd document from the bottom of page 2 of Applicant's 1449) in further view of Landau (US 5,235,782).

Applicant respectfully traverses the rejection for the reasons provided in the response to the first rejection under §103.

In view of the above, applicant respectfully requests reconsideration and withdrawal of the rejection under §103.

Secondary References

The secondary references cited by the examiner have been reviewed.

None of the secondary references teach the invention as presently claimed.

Amended and New Claims

Claims 1, 8 and 12 have been amended to indicate that the upper portion which is detachable comprises a portion of the first panel and a portion of the second panel, as supported and described at least in Figs. 1, 3 and 8 and elsewhere in the specification. The claims have been amended to indicate that the flattened body is a "substantially" flattened body as supported and described in ¶ 0096 of the specification.

New claims 16, 37 and 58 are supported and described in the specification in ¶ 0096.

New claims 17, 38 and 59 are supported and described in the specification in ¶ 0090.

New claims 18, 39 and 60 are supported and described in the specification in ¶ 0068.

New claims 19, 40 and 61 are supported and described in the specification in ¶ 0057.

New claims 20, 41 and 62 are supported and described in the specification in ¶ 0057 and 0060.

New claims 21, 42 and 63 are supported and described in the specification in ¶ 0081-0087.

New claims 22, 43 and 64 are supported and described in the specification in ¶ 0055 and 0057.

New claims 23, 44 and 65 are supported and described in the specification in ¶ 0067.

New claims 24, 45 and 66 are supported and described in the specification in ¶ 0072.

New claims 25, 46 and 67 are supported and described in the specification in ¶ 0075.

New claims 26, 47 and 68 are supported and described in the specification in ¶ 0091.

New claims 27, 48 and 69 are supported and described in the specification in ¶ 0094.

New claim 28 is supported and described in the specification in ¶ 0094.

New claims 29, 49 and 70 are supported and described in the specification in ¶ 0060-0062.

New claims 30 and 51 are supported and described in Figs. 20 and 21 and the corresponding text in the specification.

Conclusion

In view of the above, Applicant respectfully submits that the claims are now in a condition for allowance and requests issuance of a Notice of Allowance therefor.

Respectfully submitted,



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